United Nations CCPR/C/LTU/CO/4

International Covenant on Civil and Political Rights

Distr.: General
29 August 2018

Original: English

Human Rights Committee

Concluding observations on the fourth periodic report of Lithuania*

1. The Committee considered the fourth periodic report of Lithuania (CCPR/C/LTU/4) at its 3502nd and 3403rd meetings (see CCPR/C/SR.3502 and 3503), held on 10 and 11 July 2018. At its 3517th meeting, held on 20 July 2018, it adopted the following concluding observations.

A. Introduction

2. The Committee is grateful to the State party for having accepted the simplified reporting procedure and for submitting its fourth periodic report in response to the list of issues prior to reporting prepared under that procedure (CCPR/C/LTU/QPR/4). It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's delegation on the measures taken during the reporting period to implement the provisions of the Covenant. The Committee thanks the State party for the oral responses provided by the delegation and for the supplementary information provided to it in writing.

B. Positive aspects

3. The Committee welcomes the following legislative and institutional measures taken by the State party:

(a) The 2017 amendment to the Law on the Fundamentals of Protection of the Rights of the Child 1996, prohibiting corporal punishment in all settings, including the home;

(b) The entry into force in 2017 of the Code of Administrative Offences, eliminating prolonged administrative detention of persons having committed certain administrative offences and administrative arrest;

(c) The 2015 amendments to the Law on the Legal Status of Aliens, which strengthen guarantees against arbitrary detention and improve the protection of asylum seekers;

(d) The 2013 amendments to the Law on the Seimas Ombudsmen, designating the Seimas Ombudsmen's Office as the national mechanism to prevent torture and cruel, inhuman or degrading treatment or punishment;

(e) The accreditation in 2017 by the Global Alliance of National Human Rights Institutions of the Seimas Ombudsmen's Office as a national human rights institution with "A" status;

* Adopted by the Committee at its 123rd session (2–27 July 2018).

GE.18-14176(E)

1814176

Please recycle

(f) The adoption of the National Programme for the Prevention of Domestic Violence and Provision of Assistance to Victims 2017–2020, amendments to the Criminal Code and the Law on Protection against Domestic Violence, and the approval of the Specialized Assistance Centre programme to address domestic violence and provide victims with assistance;

(g) The adoption of the National Programme for Equal Opportunities of Men and Women 2015–2021;

(h) The development and implementation of the Action Plan for Promoting Non-discrimination 2017–2019, the establishment of the Department of National Minorities in 2015 and the adoption of the Action Plan for Roma Integration into Lithuanian Society for the period 2015–2020;

(i) The appointment in 2017 of the National Trafficking Rapporteur.

4. The Committee also welcomes the ratification of, or accession to, the following international instruments by the State party:

(a) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in 2014;

(b) The International Convention for the Protection of All Persons from Enforced Disappearance, in 2013.

C. Principal matters of concern and recommendations

Implementation of the Covenant and its Optional Protocol

5. The Committee notes with appreciation that courts have invoked the provisions of the Covenant while reviewing domestic cases. The Committee also notes the State party's cooperation with the Committee's follow-up process for its previous concluding observations, but regrets that some of those recommendations have not been implemented. While welcoming the State party's representation that implementation efforts are ongoing, the Committee is concerned about the lack of procedures in place to implement its Views and at the slow pace of implementation of its Views in communication No. 2155/2012 (*Paksas v. Lithuania*), adopted in March 2014, regarding the disqualification from political office of the former President. It is also concerned at reports of a Constitutional Court ruling in 2016 and statements by government officials that question the legal value of the Views of the Committee (art. 2).

6. **The State party should take all necessary institutional and legislative measures to ensure the full implementation of the rights protected by the Covenant in the domestic legal system and to ensure the full implementation of the concluding observations and Views adopted by the Committee so as to guarantee the right of victims to an effective remedy when there has been a violation of the Covenant, in accordance with article 2 (2) and (3) of the Covenant. It should intensify its efforts to inform and educate the public, lawyers, prosecutors and judges about the Covenant and its Optional Protocol.**

Discrimination against Roma

7. While noting the various programmes to improve the situation of the Roma community and the progress achieved in certain areas, in particular education and employment, the Committee is concerned at reports that the Roma community continues to suffer from widespread discrimination, especially in the areas of housing, health care, employment and education. In particular, it is concerned (a) that part of the Roma population does not have compulsory health insurance; (b) at the persistent low literacy rates among Roma compared with the general population, the low percentage of Roma people with a general education and the decrease in the number of Roma people with secondary and higher education; and (c) at the low employment rate among Roma, in particular women. The Committee regrets the lack of statistics on the number of complaints

of discrimination against the Roma community and is concerned about the low number of investigations and lack of accountability for such acts (arts. 2, 24, 26 and 27).

8. **The State party should intensify its efforts to address stereotypes, prejudice, intolerance and systemic discrimination against the Roma population and ensure that complaints are investigated, perpetrators are held accountable and victims have access to full reparation. It should ensure access by the Roma to the education system, including by increasing school enrolment and completion rates among Roma children. It should also implement measures to ensure universal health coverage and equal access by Roma to health-care services, housing and the labour market. It should ensure the effective implementation of the Action Plan for Roma Integration into Lithuanian Society (2015–2020), including by allocating sufficient funding, and ensure the effective coordination among and accountability of local authorities.**

Discrimination on the grounds of sexual orientation and gender identity

9. The Committee is concerned at the persistence of stereotypical attitudes, prejudice, hostility and discrimination against lesbian, gay, bisexual, transgender and intersex persons. Recalling its previous recommendation (see CCPR/C/LTU/CO/3, para. 8), the Committee remains concerned that certain legal instruments, such as the Law on the Protection of Minors against the Detrimental Effect of Public Information, may be applied, including by the Office of the Inspector of Journalist Ethics, to restrict media and other content in a manner that unduly restricts freedom of expression regarding lesbian, gay, bisexual, transgender and intersex issues and contributes to discrimination. While noting the information provided by the State party, the Committee remains concerned at various legislative initiatives, including proposed amendments to the Code of Administrative Offences, the Constitution and the Civil Code, which would limit the enjoyment of the rights of lesbian, gay, bisexual, transgender and intersex persons under the Covenant. The Committee is also concerned that same-sex couples are not legally recognized in the State party, including those legally married and recognized outside Lithuania. The Committee is further concerned about the lack of clarity in legislation and procedures concerning the change of civil status with respect to gender identity, in particular, the absence of legislation enabling gender reassignment procedures and change of civil status without undergoing gender reassignment surgery (arts. 2, 3, 16, 17, 19, 23 and 26).

10. **The State party should intensify its efforts to eliminate discrimination, in law and in practice, against persons on the basis of their sexual orientation or gender identity, ensure that legislation is not interpreted and applied in a discriminatory manner against lesbian, gay, bisexual, transgender and intersex persons and refrain from adopting any legislation that would impede the full enjoyment of their Covenant rights. It should review relevant legislation to fully recognize the equality of same-sex couples and ensure that legislation concerning the change of civil status with respect to gender identity is clear and applied in accordance with the rights guaranteed under the Covenant, including through the enactment of legislation on gender reassignment procedures.**

Hate speech and hate crimes

11. While noting the legislative and other measures taken by the State party to combat hate speech and hate crimes, the Committee remains concerned about intolerance and prejudice towards vulnerable and minority groups, including Roma, Jews, migrants, refugees, asylum seekers and lesbian, gay, bisexual, transgender and intersex persons, as well as the prevalence of hate speech and hate crimes against these groups, including on the Internet. The Committee is concerned that hate speech and hate crimes based on gender identity are not expressly prohibited in national legislation (article 170 of the Criminal Code) and at reports that the aggravating circumstance established under article 60.1.12 of the Criminal Code has never been applied on the ground of sexual orientation. The Committee is further concerned at the low number of complaints, investigations, cases brought before domestic courts and convictions of hate crimes and the lack of information on penalties imposed. While noting the State party's statement that data collection has improved, the Committee regrets the lack of accurate official data disaggregated by social

group with regard to complaints about discrimination, hate speech and hate crimes (arts. 2, 3, 17, 18, 19, 20, 26 and 27).

12. **The State party should:**

(a) **Strengthen its efforts to combat intolerance, stereotypes, prejudice and discrimination towards vulnerable and minority groups, including Roma, Jews, migrants, refugees, asylum seekers and lesbian, gay, bisexual, transgender and intersex persons, by, inter alia, increasing training for law enforcement personnel, prosecutors and the judiciary and conducting awareness-raising campaigns promoting sensitivity and respect for diversity among the general public;**

(b) **Increase its efforts to prevent hate speech and hate crimes, including by effectively implementing article 170 of the Criminal Code, and ensure that any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence is prohibited by law, including on the ground of gender identity, in accordance with articles 19 and 20 of the Covenant and the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression;**

(c) **Encourage the reporting of hate crimes and hate speech and ensure that crimes are promptly identified and registered as such, including through the establishment of a comprehensive, disaggregated data-collection system;**

(d) **Strengthen the investigation capacity of law enforcement officials on hate crimes and criminal hate speech, including on the Internet, and ensure that all cases are systematically investigated, that perpetrators are held accountable with penalties commensurate with the crime and that victims have access to full reparation.**

Persons with psychosocial or intellectual disabilities

13. The Committee is concerned about the legal framework providing for involuntary hospitalization and treatment of persons with psychosocial or intellectual disabilities, including without a court order. It is also concerned at provisions that allow for non-consensual surgical operations, including castrations, sterilizations, abortions and operations for the removal of organs of persons with disabilities who have been deprived of their legal capacity, and at the lack of legal remedies to challenge involuntary hospitalization and medical treatment. While noting the information that the draft new Mental Health Act intends to address some of these issues, the Committee is concerned that this legislation still may not provide sufficient legal and procedural safeguards for involuntary hospitalization and treatment. While noting the proposed legislative amendments regarding limitation of the legal capacity of persons with disabilities, the Committee remains concerned that individuals declared legally incapacitated can challenge this decision only once per year and regrets not having received clarification on how these amendments will ensure free and effective legal representation of persons deprived of legal capacity. Finally, the Committee is concerned about restrictions on the right to marry, vote and stand for elections for persons with disabilities who have been deprived of their legal capacity (arts. 2, 7, 9, 10, 14, 16, 23, 25 and 26).

14. **The State party should:**

(a) **Ensure that involuntary psychiatric confinement is strictly necessary and proportionate, is for the purpose of protecting the individual in question from serious harm or from injuring others and is applied only as a last resort and for the shortest period of time, and that such individuals have access to effective judicial review of decisions affecting them, consistent with articles 9 and 14 of the Covenant;**

(b) **Ensure that medical treatment or surgical interventions involving persons with disabilities who have been deprived of their legal capacity are respectful of the principle of free, prior and informed consent of the persons concerned and are carried out pursuant to appropriate legal and procedural safeguards; guarantee effective legal remedies; and ensure that any abuse is effectively investigated, with criminal liability in appropriate cases;**

(c) **Ensure that any restriction on legal capacity is no greater than necessary, is imposed pursuant to appropriate legal and procedural safeguards and ensures free and effective legal representation in all proceedings, and that individuals have prompt access to effective judicial review of decisions regarding their legal capacity;**

(d) **Revise its legislation to ensure that it does not discriminate against persons with mental, intellectual or psychosocial disabilities by denying them the right to marry; legislation should not discriminate against such persons by denying them the right to vote and stand for election on grounds that are disproportionate or have no reasonable and objective relation to their ability to vote or stand for election, taking account of article 25 of the Covenant.**

Equality between men and women

15. The Committee is concerned about the lack of accurate statistical information on complaints of, and the low number of investigations into, gender discrimination. While noting that article 26 of the Labour Code, which entered into force in July 2017, establishes equal pay for work of equal value, the Committee is concerned about the persistent gender pay gap (arts. 2, 3 and 26).

16. **The State party should ensure that cases of gender discrimination are promptly identified, registered and systematically investigated, that perpetrators are held accountable and that victims have access to full reparation. It should also strengthen its efforts to eliminate the gender wage gap by addressing differences in pay between men and women for work of equal value.**

Violence against women, including domestic violence

17. Notwithstanding the positive measures taken by the State party to address violence against women, the Committee is concerned that such violence, including domestic violence, continues to be a persistent and underreported problem. In this respect, it is concerned about reports of the limited enforcement of protection orders and the excessive use of reconciliatory mediation for victims of domestic violence, and the lack of specialized support for victims with disabilities. The Committee is further concerned about the low number of investigations and convictions and at the fact that marital rape is not explicitly criminalized (arts. 2, 3, 7, 24 and 26).

18. **The State party should strengthen its efforts to prevent and supress violence against women, including domestic violence, by, inter alia:**

(a) **Strengthening the legal framework for the protection of women against violence, including by explicitly criminalizing marital rape and eliminating resort to reconciliatory mediation for victims of domestic violence;**

(b) **Ensuring that cases of domestic violence are recorded and thoroughly investigated, that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions and that victims have access to effective remedies and means of protection, including through effective enforcement of protective orders in all parts of the country, including for victims with disabilities;**

(c) **Conducting awareness-raising for the general public regarding violence against women, including domestic violence, and ensuring that police officers, prosecutors and judges receive appropriate training to deal effectively with such cases;**

(d) **Finalizing ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention).**

Migrants and asylum seekers

19. The Committee notes with appreciation the State party's embrace of its shared responsibility for the protection of refugees and asylum seekers and the recent strengthening of its protection framework. However, it is concerned about the length of detention of migrants, which can be up to 18 months; the fact that alternatives to detention

are rarely used; and reported lack of legal aid available to migrants in irregular situations held in detention. The Committee is also concerned about the lack of adequate reception conditions at the Foreigners' Registration Centre, including social, psychological and rehabilitation services, in particular for asylum seekers with specific needs. The Committee is further concerned about allegations of denial of entry into the territory and failure to receive and register asylum applications of persons seeking international protection at the border and in reception and detention facilities. It is concerned at reports of detention of asylum seekers at the border for up to 28 days in unsuitable conditions without judicial remedies to challenge their detention (arts. 6, 7, 9, 10 and 13).

20. **The State party should:**

(a) **Avoid placing asylum seekers in administrative detention and provide effective alternatives to detention so that detention is used only as a last resort and for as short a period as possible, as well as reduce the length and practice of detaining migrants, and ensure that migrants have access to a lawyer and legal aid where the interests of justice so require and are provided with information on their rights, including at the border;**

(b) **Further improve reception conditions in the Foreigners' Registration Centre by ensuring adequate access to social, psychological, rehabilitation and health care services;**

(c) **Ensure that all applications for international protection at the border and in reception and detention facilities are promptly received, registered and referred to the asylum authority, and effectively investigate all allegations of denials of entry and access to asylum procedures for persons seeking international protection;**

(d) **Ensure against unlawful or arbitrary detention of asylum seekers at the border, including by clarifying in the Aliens Law that the holding of asylum seekers at the border, including in the transit zones, constitutes detention with accompanying procedural and judicial guarantees;**

(e) **Strengthen training for the staff of migration institutions and border personnel on the rights of asylum seekers and refugees under the Covenant and other international standards.**

Persons deprived of liberty and detention conditions

21. The Committee is concerned at the increasing length of pretrial detention and the insufficient use of alternatives to detention, including bail. The Committee regrets not having received information on the impact of the Code of Administrative Offences on the reported detention of persons in police arrest houses for up to 15 days. While noting the efforts to improve prison conditions, it remains concerned about multiple reports of overcrowding and poor living conditions in places of deprivation of liberty, in particular with respect to substandard hygiene, poor nutrition, poor health services, limited time outside cells and substandard accommodation. The Committee is also concerned about allegations of ill-treatment and excessive use of force in certain facilities, including police detention centres, prisons and psychiatric institutions, as well as the very low number of pretrial investigations and convictions for "inappropriate conduct" by prison staff. It is concerned at reports that fundamental legal guarantees, including the right of detained persons to be informed of and understand their rights, the right to have access to a lawyer and to adequate time and facilities for the preparation of their defence, the right to an independent doctor and the right to notify a relative or person of their choice, are not afforded from the very outset of deprivation of liberty (arts. 7, 9, 10 and 14).

22. **The State party should:**

(a) **Ensure that alternatives to detention, including bail, are always considered and that pretrial detention is always an exceptional, reasonable and necessary measure based on individual circumstances and is as short as possible;**

(b) **Expedite its efforts to improve conditions and reduce overcrowding in places of deprivation of liberty, including by taking account of the recommendations**

of the Seimas Ombudsmen's Office and those of the Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and ensuring that conditions in places of detention are in line with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules);

(c) **Ensure that all allegations of ill-treatment by personnel in places of deprivation of liberty are promptly investigated, that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions and that victims have access to effective remedies;**

(d) **Ensure that persons deprived of liberty are provided in practice with all legal safeguards from the very outset of deprivation of liberty.**

Counter-terrorism measures and secret detention

23. The Committee is concerned that the State party has not fully and comprehensively investigated the complicity of the State party and State officials in human rights violations in counter-terrorism operations, including secret detention. While welcoming the delegation's statement that once the recent judgment by the European Court of Human Rights in *Abu Zubaydah v. Lithuania* is final it will be executed, the Committee is concerned at reports that public servants in Lithuania have denied the binding nature of that judgment. The Committee is further concerned that pretrial investigation No. 01-2-00015-14 has not been completed, that no suspects have been identified and that all information on the progress and results of this investigation has been kept secret (arts. 2, 7, 9, 10 and 16).

24. **The State party should take the appropriate measures to investigate its complicity and that of State officials in human rights violations in counter-terrorism operations, including in the case of Abu Zubaydah and any other secret detentions, and ensure that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions and that victims have access to effective remedies. It should also complete pretrial investigation No. 01-2-00015-14 within a reasonable time and ensure effective transparency and public scrutiny of its outcome.**

Freedom of thought and belief

25. The Committee notes the information provided by the State party that military service based on conscription has not taken place since its reintroduction in 2015, as quotas have been fulfilled by volunteers. However, it is concerned that the alternative national defence service does not provide for alternative civil service independent of military control and supervision and the institutions of the national defence system, and that salaries are not comparable to those of military service (arts. 18 and 26).

26. **The State party should ensure that the Law on National Conscription provides for conscientious objection in a manner consistent with articles 18 and 26 of the Covenant, ensuring that it provides for an alternative to military service outside of the military sphere and not under military command and on comparable salary terms, bearing in mind that article 18 protects freedom of conscience based on religious and non-religious beliefs.**

Freedom of expression and association

27. The Committee is concerned at initiatives that would restrict and inhibit freedom of expression, including that of individuals addressing the complicity of Lithuanians in Nazi crimes against Jews and others. In particular, it is concerned at reports that the names of associations, news agencies, journalists, human rights defenders and other individuals are published in the annual Assessment of Threats to National Security by the State Security Department, and at the absence of any information regarding the criteria and procedures for such publication or its justification. It is also concerned at reports of recently proposed amendments to the Law on Consumer Protection which would ban the sale of material that "distorts historical facts" about the nation (arts. 19 and 21).

28. **The State party should cease publicly referring to individuals and entities that exercise their freedom of expression as "national security threats". It should ensure**

that all of its initiatives, legislative or otherwise, guarantee that authors, journalists, human rights defenders and other individuals and associations are able to freely exercise their right to freedom of expression, in accordance with article 19 of the Covenant and the Committee's general comment No. 34.

Protection of minors and rights of the child

29. The Committee is concerned at the persistence of violence against children, including domestic violence. The Committee is further concerned about reports of ill-treatment of children in institutional settings and regrets not having received information on cases of trafficking and exploitation of children, as well as on the incidence of violence and abuses against children, investigations conducted and prosecutions pursued. The Committee is further concerned at the high incidence of pregnancy among Roma girls. It is also concerned about the amendment to the Civil Code in June 2010 which allows the courts to reduce the legal age of consent to 16 years at the request of a person intending to marry before the age of 18 and before the age of 16 in cases of pregnancy (arts. 7, 8, 23 and 24).

30. **The State party should regularly monitor the conditions and treatment of children in institutional settings and protect children from all forms of violence, exploitation and trafficking. It should strengthen its efforts to reduce the high pregnancy rate among Roma girls, and ensure the accessibility and availability of sexual and reproductive health education and services and affordable contraception for Roma women and girls. In addition, the State party should take the necessary steps to eradicate child marriage in law and in practice, including through legislation setting the minimum age of marriage at 18 years.**

D. Dissemination of information relating to the Covenant

31. **The State party should widely disseminate the Covenant and its two Optional Protocols, its fourth periodic report and the present concluding observations with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country and the general public, including members of minority communities. The State party should ensure that the report and the present concluding observations are translated into the official language of the State party.**

32. **In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party is requested to provide, by 27 July 2020, information on the implementation of the recommendations made by the Committee in paragraphs 10 (discrimination on the grounds of sexual orientation and gender identity), 20 (migrants and asylum seekers) and 22 (persons deprived of liberty and detention conditions) above.**

33. **The Committee requests the State party to submit its next periodic report by 27 July 2024. Given that the State party has accepted the simplified reporting procedure, the Committee will transmit to it a list of issues prior to the submission of the report in due course. The State party's replies to that list will constitute its fifth periodic report. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words.**